

STATE OF MICHIGAN  
IN THE SUPREME COURT

BLACKHAWK DEVELOPMENT CORPORATION,  
a Michigan corporation, and DEXTER  
CROSSING, LLC, a Michigan limited  
liability company,

Plaintiffs-Appellants,

vs.

VILLAGE OF DEXTER and DEXTER  
DEVELOPMENT,

Defendants-Appellees.

Supreme Court Docket  
No. 126036

Court of Appeals Docket  
No. 240790

Washtenaw County Circuit  
Court Case No. 00-724-CZ

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DEFENDANT-APPELLEE DEXTER DEVELOPMENT, LLC'S SUPPLEMENTAL  
BRIEF IN OPPOSITION TO APPLICATION FOR LEAVE TO APPEAL

**FILED**

NOV 29 2004

CORBIN R. DAVIS  
CLERK  
MICHIGAN SUPREME COURT

THIS IS A PUBLIC ROAD EASEMENT CASE,  
NOT A CONDEMNATION CASE

The core conceptual issue in this case is which body of law should apply: that of public road easements, or that of condemnation. Plainly, this case is about the scope of a public road easement. It is not a condemnation case.

Because the great weight of authority supports the broad scope of a public road easement, and because the improvements here clearly fall within that scope, Plaintiff has persistently tried to change the issue by claiming that condemnation law somehow applies. It does not, because this is not a condemnation case. The public road easement was granted to the Village by Plaintiff's predecessor years before this dispute arose. The road easement was duly recorded by the Village. Plaintiff was fully aware of the easement when he bought the property.

Because this is not a condemnation case, the authorities cited by Plaintiff which ostensibly suggest a "heightened security" over the uses to which this public road easement may be put are inapposite. The scope of a public road easement is very broad, and the improvements in this case are within that broad scope and are in the public interest. Accordingly, Plaintiff has no right to compensation (see numerous authorities quoted in Defendant-Appellee's Brief in Opposition to Application for Leave to Appeal, pp. 31-32).

This Court should not be misled, as was the dissent in the Court of Appeals, by Plaintiff's effort to make this a condemnation case. It is not. The law regarding the broad scope of a public road easement is longstanding, well-settled, and fundamental to the ability of municipalities to act in the public interest.

RELIEF


Plaintiff's Application for Leave to Appeal should be denied. If this Honorable Court takes any other action, it should affirm the judgment of the trial court and the Court of Appeals.

Respectfully submitted,

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Dated: November 24, 2004

By: \_\_\_\_\_

  
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